

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 95-96

Introduced by Council President Parrott at the request of the County Executive

Special Legislative Session Day No. 95-37

Date: December 21, 1995

AN ORDINANCE approving and providing for a multi-year Installment Purchase Agreement by Harford County, Maryland (the "County") to jointly acquire with the Maryland Agricultural Land Preservation Foundation development rights in up to 146.04 acres of agricultural land and separately acquire on behalf of the County, development rights in up to 15 acres of agricultural land located at 4701 Fawn Grove Road in Pylesville, Maryland from Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III, or any other owner thereof for a maximum purchase price of \$2,500.00 per acre or portion thereof (excluding one acre for any existing residential dwelling); providing that the County's obligation to pay such purchase price and interest thereon shall be a full faith and credit general obligation of the County; providing for the levying of taxes for such payments; authorizing the County Executive to make modifications in such Agreement under certain circumstances; providing that the development rights to be acquired by the County

By the Council, December 21, 1995

Introduced, read first time, ordered posted and public hearing scheduled

on: January 16, 1996

at: 7:00 p.m.

By Order: James D. Vannoy, Acting Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on January 16, 1996, and concluded on January 16, 1996.

James D. Vannoy, Acting Secretary

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

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shall not be subject to termination as provided in Section 2-514 of the Agriculture Article of the Annotated Code of Maryland (1985 Replacement Volume, 1995 Cum. Suppl.); reviving the authorizing legislation approved in Bill No. 94-76, which expired as provided in Bill No. 93-2; and providing for and determining various matters in connection therewith.

By the Council, _____

Introduced, read first time, ordered posted and public hearing scheduled

on: _____

at: _____

By Order: _____, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on _____, and concluded on _____.

_____, Secretary

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

RECITALS

Subtitle 5 of Title 2 of the Agriculture Article of the Annotated Code of Maryland (1985 Replacement Volume, 1995 Cum. Suppl.) establishes the Maryland Agricultural Land Preservation Foundation in the Maryland Department of Agriculture (the "Foundation"). The Foundation has been authorized to spend \$296,173.30 to acquire development rights from Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III, in 146.04 acres for a purchase price of \$2,500.00 per acre. As the purchase price for 146.04 acres at \$2,500.00 is \$365,100.00, the Foundation has requested the County to participate in the development rights acquisition by paying the balance of the purchase price of 146.04 acres, or \$68,927.70. In addition, Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III have requested the County to purchase development rights in up to 15 additional acres for a purchase price of \$2,500.00 per acre and a maximum additional purchase price of \$37,500.00. The maximum expenditure by the County for the purchase of development rights in the land of Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III is as follows:

A.	146.04 acres to be acquired jointly by the County and the Foundation	\$ 68,927.70
B.	15 acres to be acquired solely by the County	\$ <u>37,500.00</u>
	TOTAL	\$ <u>106,427.70</u>

In accordance with the provisions of Section 524 of the Charter of Harford County (the "Charter"), the Annual Budget and

1 Appropriation Ordinance of Harford County, Maryland (the "County")
 2 the Budget for fiscal year 1995, Bill No. 94-20 As Amended (the
 3 "Budget Ordinance") includes a project permitting the County to
 4 enter into installment purchase agreements to acquire development
 5 rights in agricultural lands located within the County, which
 6 Budget Ordinance was adopted by the County Council of Harford
 7 County, Maryland (the "County Council"), in accordance with the
 8 Charter.

9 Section 520 of the Charter provides that "any contract, lease
 10 or other obligation in excess of three thousand dollars (\$3,000)
 11 requiring the payment of funds from the appropriations of a later
 12 fiscal year shall be authorized by legislative act, and Section 524
 13 of the Charter provides that the County may enter into installment
 14 contracts to purchase easements for agricultural land preservation
 15 purposes and pursuant to Bill No. 93-2 passed by the County Council
 16 on April 6, 1993, approved by the County Executive of the County on
 17 April 20, 1993, and effective on June 21, 1993 (the "Authorizing
 18 Act"), the County has been authorized and empowered to enter into
 19 such installment purchase agreements.

20 The Authorizing Act provides that after review by the Harford
 21 County Agricultural Advisory Board in accordance with the County's
 22 Easement Priority Ranking System and approval by the Harford County
 23 Board of Estimates, the County Council, may approve and provide for
 24 the acquisition of the development rights in each particular parcel
 25 of agricultural land, as defined in the Authorizing Act.

Attached to this Ordinance as Exhibit A are records of The Harford County Agricultural Advisory Board evaluating all applications to offer development right easements to the County, with each application ranked pursuant to the County's easement priority ranking system.

The County has now determined to enter into an Installment Purchase Agreement with Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III or any other person who is or becomes the owner of all or any portion of the Land (hereinafter defined) prior to execution and delivery of such Agreement, in order to acquire the development rights in approximately 161.04 acres, more or less, of agricultural land located at 4701 Fawn Grove Road, Pylesville, Maryland, within the County for an aggregate purchase price not in excess of \$106,427.30, plus interest thereon, the actual amount of the purchase price to be equal to the lesser of such maximum amount or \$2,500.00, times the number of acres in such land (minus the payment of \$296,173.30 to be paid by the Foundation and minus one acre for any existing residential dwelling located thereon), upon the terms and conditions hereinafter set forth authorizing the purchase by the County in 1994, Bill No. 94-76 was passed by the County Council of the development rights described herein; however, the development rights were not acquired within the time period prescribed by the Authorizing Act, and therefore the authority provided by Bill No. 94-76 has expired.

NOW, THEREFORE:

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That

(a) Harford County, Maryland (the "County") shall enter into an Installment Purchase Agreement (the "Installment Purchase Agreement") with Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III, or any person who is or becomes the owner of all or any portion of the Land (hereinafter defined) prior to the execution and delivery of the Installment Purchase Agreement (the "Seller") in order to acquire the development rights in approximately 161.04 acres of land, more or less, located at 4701 Fawn Grove Road in Pylesville, Maryland within the County (the "Land"), for an aggregate purchase price to be paid by the County not in excess of \$106,427.30 (the "Purchase Price"), plus interest thereon as hereinafter provided; provided that the actual amount of the Purchase Price shall be equal to the lesser of such maximum amount or \$2,500.00 multiplied by the number of acres in the Land (minus the payment of \$296,173.30 by the Foundation and minus one acre for any existing residential dwelling located thereon). The County shall acquire the development rights in 146.04 acres jointly with the Foundation and shall be the sole purchaser of the development rights in up to 15 acres;

(b) The Installment Purchase Agreement shall be in substantially the form attached hereto as Exhibit B and made a part hereof, and in such form the Installment Purchase Agreement is hereby approved as to form and content. The Installment Purchase

Agreement shall be dated as of the date of its execution and delivery by the County and the Seller (the "Closing Date");

(c) A portion of the Purchase Price, in the amount determined as hereinafter provided, shall be paid in cash on the Closing Date. The balance of the Purchase Price shall be paid to the Seller in each year thereafter to and including a date not more than twenty (20) years after the Closing Date. The dates on which each such installment is payable shall be determined by the County Executive and the Treasurer and shall be inserted in the form of the Installment Purchase Agreement attached hereto as Exhibit B;

(d) Interest on the unpaid balance of the Purchase Price shall accrue from the Closing Date and shall be payable at least annually in each year, commencing on the first of such dates to follow the Closing Date and continuing to and including a date not more than 20 years after the Closing Date at an interest rate equal to the yield on U.S. Treasury STRIPS maturing on the date next preceding the final maturity date in the Installment Purchase Agreement determined as of the business day preceding the Closing Date and rounded to the next highest 0.05% per annum. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months;

(e) The County's obligation to make payments of the Purchase Price under the Installment Purchase Agreement and to pay interest thereon is and shall be a general obligation of the County and is and shall be made upon its full faith and credit.

SECTION 2. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF
HARFORD COUNTY, MARYLAND,

That it is hereby found and determined that:

(a) The acquisition of the development rights in the
Land pursuant to a Deed of Easement substantially in the form
attached hereto as Exhibit C as set forth in Section 1 of this
Ordinance and in the form of the Installment Purchase Agreement
attached hereto as Exhibit B is in the best interests of the
County;

(b) The Installment Purchase Agreement is a contract
providing for the payment of funds at a time beyond the fiscal year
in which it is made and requires the payment of funds from
appropriations of later fiscal years;

(c) Funds for the payment of the Purchase Price under
the Installment Purchase Agreement are included in the Budget
Ordinance, As Amended;

(d) The County shall acquire the development rights in
the Land in perpetuity;

(e) The Purchase Price is within the legal limitation on
the indebtedness of the County as set forth in Article 25A, § 5(P)
of the Annotated Code of Maryland;

(f) The cost of acquiring the development rights in the
Land is equal to the Purchase Price;

(g) The only practical way to acquire the development
rights in the Land is by private negotiated agreement between the
County and the Seller.

SECTION 3. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Installment Purchase Agreement shall be signed by the County Executive of the County (the "County Executive") by her manual signature, and the Installment Purchase Agreement shall bear the corporate seal of the County, attested by the manual signature of the Director of Administration of the County (the "Director of Administration"). In the event that any officer whose signature shall appear on the Installment Purchase Agreement shall cease to be such officer before the delivery of the Installment Purchase Agreement, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

SECTION 4. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the County Executive and the Treasurer are hereby authorized, prior to execution and delivery of the Installment Purchase Agreement, to make such changes or modifications in the form of the Installment Purchase Agreement attached hereto as Exhibit B as may be required or deemed appropriate by them in order to accomplish the purpose of the transactions (including, but not limited to, determining the portion of the Purchase Price to be paid in cash on the Closing Date and establishment of interest and principal payment dates in each year that the Installment Purchase Agreement is outstanding) authorized by this Ordinance; provided that such changes shall be within the scope of the transactions authorized by this Ordinance and the execution of the Installment Purchase Agreement by the

County Executive shall be conclusive evidence of the approval by the County Executive of all changes or modifications in the form of the Installment Purchase Agreement and shall thereupon become binding upon the County in accordance with its terms, as authorized by Section 524 of the Charter and the Authorizing Act (collectively, the "Enabling Legislation"), and as provided for in this Ordinance.

SECTION 5. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the County Executive, the Director of Administration, the Treasurer of the County and other officials of the County are hereby authorized and empowered to do all such acts and things and to execute, acknowledge, seal and deliver such documents (including a Tax Certificate and Compliance Agreement) and certificates as the County Executive may determine to be necessary to carry out and comply with the provisions of this Ordinance subject to the limitations set forth in the Enabling Legislation and any limitations set forth in this Ordinance.

SECTION 6. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Treasurer of the County is hereby designated and appointed as registrar and paying agent for the Installment Purchase Agreement (the "Registrar"). The Registrar shall maintain, or cause to be maintained, books of the County for the registration and transfer of ownership of the Installment Purchase Agreement. In addition, the County may, from time to time, designate and appoint the Department of the Treasury of the County, any officer or employee of the County or one or more

banks, trust companies, corporations or other financial institutions to act as a substitute or alternate registrar or paying agent for the Installment Purchase Agreement, and any such substitute or alternate shall be deemed to be the Registrar or an alternate Registrar for all purposes specified in the resolution appointing such substitute or alternate. Any such appointment shall be made by the County Council by resolution and the exercise of such power of appointment, no matter how often, shall not be an exhaustion thereof.

SECTION 7. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That for the purpose of paying the installments of the Purchase Price when due and payable and the interest on the unpaid portion of the Purchase Price when due and payable, there is hereby levied, and there shall hereafter be levied in each fiscal year that any portion of the Purchase Price payable under the Installment Purchase Agreement remains outstanding, *ad valorem* taxes on real and tangible personal property and intangible property subject to taxation by the County, without limitation of rate or amount, and, in addition, upon such other intangible property as may be subject to taxation by the County within limitations prescribed by law, in an amount sufficient, together with the portion of the transfer tax imposed on transfers of real property in Harford County which is dedicated to agricultural land preservation and other available funds, to pay any installment of the Purchase Price under the Installment Purchase Agreement maturing during the succeeding year and to pay

the annual interest on the outstanding balance of the Purchase Price until all of the Purchase Price under the Installment Purchase Agreement and such interest have been paid in full; and the full faith and credit and the unlimited taxing power of the County are hereby irrevocably pledged to the punctual payment of the Purchase Price under the Installment Purchase Agreement and the interest on the unpaid balance of the Purchase Price as and when the same respectively become due and payable.

SECTION 8. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the County shall acquire development rights in 146.04 acres jointly with the Foundation and in up to 15 acres to be solely owned by the County, and the interest to be acquired shall not be subject to the provisions of Section 2-514 of the Agriculture Article of the Annotated Code of Maryland (1985 Replacement Volume, 1993 Cum. Suppl.), and the purchase by the County is conditioned upon the express waiver by Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III or any other owner thereof of the aforesaid Section 2-514 of the Agriculture Article of the Annotated Code of Maryland (1985 Replacement Volume, 1995 Cum. Suppl.).

SECTION 9. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That this Ordinance shall take effect sixty (60) calendar days after it becomes law.

EFFECTIVE: March 19, 1996

TL\HARFORD CO '96 AGLAND #2\DUNKER.ORD
December 14, 1995

The Secretary of the Council does hereby certify that fifteen (15) copies of this Bill are immediately available for distribution to the public and the press.

James D. Vanna
Acting Secretary

HARFORD COUNTY BILL NO. 95-96(Brief Title) Ag. Land Preservation - Dunker property

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

ENROLLED

James D. Vannoy
Acting Secretary
of the Council

Joanne S. Barrett
President of the Council

Date January 16, 1996Date 1/16/96

BY THE COUNCIL

Read the third time.

Passed: LSD 96-3 (January 16, 1996)

Failed of Passage: _____

By Order

James D. Vannoy
Acting Secretary

Sealed with the County Seal and presented to the County Executive for approval this 18th day of January, 1996 at 3:00 p. m.

James D. Vannoy
Acting Secretary

BY THE EXECUTIVE

Eileen M. Lehmann
COUNTY EXECUTIVE

APPROVED: Date January 19, 1996

BY THE COUNCIL

This Bill (No. 95-96), having been approved by the Executive and returned to the Council, becomes law on January 19, 1996.

James D. Vannoy
Acting Secretary

EFFECTIVE DATE: March 19, 1996